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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/752,801 | 01/07/2004 | Thomas Alfred Plato | 4011.001 | 5133 |
| 58152 | 7590 | 03/05/2007 | EXAMINER | |
| DEFILLO & ASSOCIATES, INC. P.O. Box 14104 Clearwater, FL 33766 | | | LEVY, NEIL S | |
| | | ART UNIT | PAPER NUMBER | |
| | | 1615 | | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | | DELIVERY MODE | |
| 3 MONTHS | 03/05/2007 | | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|-----------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/752,801 | PLATO ET AL. |
| | Examiner NEIL LEVY | Art Unit 1615 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 November 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-4, 6, 10-11, 14-20 is/are pending in the application.
- 4a) Of the above claim(s) 7, 8 and 12 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-4, 6, 10, 11 and 14-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 2-4, 6, 10-11, 14-20 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7,8,12 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply ed on 12/5/05.

Claim Rejections - 35 USC § 102

.Claim2-4, 6, 10-11, 16 –20 stand rejected under 35 U.S.C. 102(b)as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over VON KOHORN et a14160335

see example 1; the plastisol constitutes the instant now claimed mixture; as we are shown how to arrive at this, we can improve for the particular pest of concern- use a different insecticide & pheromone/attractant. The fact that this is WITHIN a laminate is not precluded by any of the instant claims as written in comprising guise, with a mixture containing the inventive material/matrix; solid matrices (figures) as sandwiches of PVC, plasticizer-dioctyl phthalate, and thickener mineral, of plastiols with insecticide and attractant are provided at example 2, to provide sustained release. Phermones include (claim 13) boll weevil control (Table II, column 19) grandlure, with insecticide dichlorvos (DDVP-column 21, top). Sterilant are at column 14-16, at least one active is seen (claim 4) thus, insecticide sterilant would be obvious to the artisan to incorporate, as of instant claim 6.

A s to claim 20, the “containing” opens the language again, & we envision the claimed matrix within the VON KOHORN laminate; it still meets the instant language. The modification applicant argues does not preclude release of vapor from VON KOHORN'S DISPENSERS.

Claim Rejections - 35 USC § 103

Claims 2-4, 6, 10-11, 14-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over VON KOHORN 4160335 in view of ROWE- 2775994 and OGAWASARA.- 3888830

Response to Arguments

Applicant's arguments filed 11/27/06 have been fully considered but they are not persuasive..

Applicant's arguments were considered in the rejections sustained , above. The claim language does not preclude the prior art laminates & matrices, because the invention can be within a package or sandwich or laminate, as of Von Kohorn, for example. The use of adjuvant ingredients for the purpose for which they are intended is not a basis for patentability- the non-analogous art comment is not persuasive for consideration of the use of these materials; they show that polymer preparation reasonably utilizes these materials, regardless of intended use of the final product.

Where persuasive, rejections have been withdrawn, but since there is no basis for allowance, the methods remain withdrawn.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NEIL LEVY

NEIL S. LEVY
PRIMARY EXAMINER